IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No 4788 of 2002
For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

AMARJITSING HARNAMSING

Versus

STATE OF GUJARAT

Appearance: MR MC BAROT for Petitioner Nos. 1-10
Mr.M.K. Dagli, Assistant GOVERNMENT PLEADER,
for Respondent No. 1
NOTICE SERVED BY DS for Respondent No. 2-4
MR AJ PATEL for Respondent No. 5-7

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 25/09/2002

ORAL JUDGEMENT

By filing this petition, the petitioner has challenged the order dated 22.2.2000, passed by the Gujarat Revenue Tribunal in TEN.BA No.493 of 1991 as well as the order dated 23.10.2001 passed in review application, being TEN.CA No.43 of 2000.

The dispute is related to land, being Block Nos. 38 and 52, situated at village Lilapur, Taluka Dascroi, District Ahmedabad. The said land is of a restricted tenure. It seems that the said land was allotted to

respondents 2 to 4 herein. There was an application for granting permission to convert the said land into N.A.land and the Deputy Collector, by his order dated 11.6.1982, granted such permission. The said order was amended on 29.11.1982. By the amendment in the original order, the name of Lilipark Plot Owners' Association was incorporated, instead of the original applicant Amarjitsingh Harmansingh. Against the said order, the State Government has filed revision application before the Tribunal, being TEN.BA No.930 of 1983. The Tribunal, by its order dated 8.8.1988, set aside the order and remanded the matter to the Deputy Collector. Thereafter, the Deputy Collector, by order dated 28.4.1989, rejected the application for granting permission for non-agricultural use.

The said order of the Deputy Collector dated 28.4.1989, was challenged before the Gujarat Revenue Tribunal at the instance of the present petitioners, being Revision Application TEN.BA No.493 of 1991. The Tribunal, by its order dated 22.2.2000, rejected the said revision application on the ground that the revision is filed after a period of about 2 years and that there are no sufficient grounds for condoning the said delay. The review application was also rejected by the Tribunal on various grounds. Ultimately, the petitioner has challenged both the orders of the Revenue Tribunal by way of this petition.

It is not in dispute that the revision application of the petitioners, being TEN.BA No.493 of 1991, is not examined by the Tribunal on its own merits and it was rejected only on the ground of limitation. Since the revision was pending since long, in my view, the Tribunal should not have disposed of the revision application on the ground of limitation; instead, it should have examined the merits of the case. Mr.A.J. Patel, leanred Advocate, who is appearing for some of the contesting respondents, fairly stated that he has no objection if the Tribunal decides the matter on merits by condoning the delay. In my view, since the matter was pending since long, this is not a case in which the Tribunal should have rejected the application for condonation of delay. It is well-settled position of law that, normally, court should take a liberal approach in the matter of condonation of delay and, therefore, considering the facts and circumstances of the case, the matter is required to be sent back to the Tribunal for considering the matter on merits.

It is clarified that this Court has not examined

the case on merits and the matter is sent back only for deciding the revision application on merits and the delay in preferring the revision application is, therefore, condoned and accordingly, it is for the Tribunal to decide the revision by deciding all the points and contentions raised by the parties in accordance with law.

In view of the fact that the main proceedings were pending before the GRT since 1991, in my view, the GRT should have disposed of the main revision application on its own merits without rejecting the same on the ground of limitation. The other side has not seriously objected the condonation of delay. In that view of the matter, the matter is sent back to the GRT for fresh decision on merits. It is clarified that while deciding the matter, the petitioner has agreed that the arguments will be confined to the proceedings under Section 63 of the Tenancy Act so that the proceedings may not be required to be enlarged while deciding the said revision application. Since this Court has already granted status quo order, the said order of status quo is ordered to be continued upto 31st December, 2002. In the meanwhile, the GRT is directed to dispose of the main revision in accordance with law. For some reason, if the Court is not in a position to dispose of the said matter, it is for the petitioner herein to apply for extension of interim relief and it is for the GRT to decide such application whether any interim relief is required to be extended or not. However, the Tribunal may make every effort to see that the matter is disposed of on or before 31st December, 2002.

Rule is made absolute to the aforesaid extent, with no order as to costs.

Writ to be sent forthwith.

(P.B. Majmudar, J.)

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(apj)